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EXAMINER

CORRIELUS, JEAN M

ART UNIT PAPER NUMBER

2162

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/904,449

Applicant(s)

RISING, HAWLEY K.

Examiner

Jean M Corrielus

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is in response to the Appeal brief filed on February 28, 2005, in which claims 1-22 are presented for further examination.

#### *Response to Arguments*

2. In view of the Appeal Brief filed on February 28, 2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

#### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically, as directed to an abstract idea.

Claims 1-11 in view of **MPEP section 2106 IV.B.2. (b)** define non-statutory processes because they merely manipulate an abstract idea without a claimed limitation to a practical application. The language of the claim raises a question as to whether the claim is directed

Art Unit: 2162

merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. The invention, as claimed, is directed to the manipulation of an abstract idea with no practical application in the technology arts. Thus, the claimed are rejected as being non-statutory.

The Supreme Court has repeatedly held that abstractions are not patentable. "An idea of itself is not patentable". Rubber-Tip Pencil Co. V. Howard, 20 wall. 498, 07. Phenomena of nature, though just discovered, mental processes, abstract intellectual concepts are not patentable, as they are the basis tolls of scientific and technological work Gottschalk V. Benson, 175 USPQ 673, 675 (S Ct 1972). It is a common place that laws of nature, physical phenomena, and abstract ideas are not patentable subject matter Parker V. Flook, 197 USPQ 193, 201 (S Ct 1978). A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See In re Wamerdam, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1754, 1759 (Fed. Cir. 1994). See also Schrader, 22 F.3d at 295, 30 USPQ2d at 1459.

Claim 1 represents an abstract idea, which do not provide a practical application in the technological arts. There is no manipulation of data nor there is any transformation of data from one state to another being performed in "A method of permitting description of audiovisual information" in claim 1. Actually, no post computer process activity is found in the technological arts. The method of permitting description of audiovisual information is not a physical transformation. Thus, no physical transformation is performed, no practical application is found in the claims. Such determining a match as claimed can be done in a piece of paper, where one having ordinary skill in the art would build a graph that links the entity to a portion of the

Art Unit: 2162

concept to produce the description of the audiovisual information in the sheet. Also, the claims do not appear to correspond to a specific machine or manufacture disclosed within the specification and thus encompass any product of the class configured in any manner to perform the underlying process, and are thus rejected as being directed. Claim 1 is not **tangibly embodied** in a manner so as to be executable as the only hardware is in an intended use statement. Therefore, claim 1 is directed to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Applicant is advised to amend the claims by specifying the claim being directed to a practical application and producing a tangible result being executed by a general purpose computer in order to correct the above indicated deficiencies.

As to claims 2-3:

5. The dependent claims 2-3 are rejected for fully incorporating the errors of their respective base claims by dependency. Thus, claim 2-3 are merely abstract idea and are being processed without any links to a practical result in the technology arts and without computer manipulation. They are not **tangibly embodied** in a manner so as to be executable as the only hardware is in an intended use statement.

Art Unit: 2162

As to claim 4:

Claim 4 represents an abstract idea, which do not provide a practical application in the technological arts. There is no manipulation of data nor there is any transformation of data from one state to another being performed in “A method for use in classifying, storage and retrieval of audiovisual information” in claim 4. Actually, no post computer process activity is found in the technological arts. The method for use in classifying, storage and retrieval of audiovisual information is not a physical transformation. Thus, no physical transformation is performed, no practical application is found in the claims. Such describing non-relational parts of a semantic description as claimed can be done in a piece of paper, where one having ordinary skill in the art would reference an interior structure of the concept from all entities in the semantic description to describe an arbitrary structure related to the audiovisual information in the sheet. Also, the claims do not appear to correspond to a specific machine or manufacture disclosed within the specification and thus encompass any product of the class configured in any manner to perform the underlying process, and are thus rejected as being directed. Claim 4 is not **tangibly embodied** in a manner so as to be executable as the only hardware is in an intended use statement. Therefore, claim 4 is directed to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Applicant is advised to amend the claims by specifying the claim being directed to a practical application and producing a tangible result being executed by a general purpose computer in order to correct the above indicated deficiencies.

Art Unit: 2162

As to claims 5-6:

6. The dependent claims 5-6 are rejected for fully incorporating the errors of their respective base claims by dependency. Thus, claim 5-6 are merely abstract idea and are being processed without any links to a practical result in the technology arts and without computer manipulation. They are not **tangibly embodied** in a manner so as to be executable as the only hardware is in an intended use statement.

As to claim 7:

Claim 7 represents an abstract idea, which do not provide a practical application in the technological arts. There is no manipulation of data nor there is any transformation of data from one state to another being performed in “A method of instantiating a semantic description of audiovisual information from a concept” in claim 7. Actually, no post computer process activity is found in the technological arts. The method of instantiating a semantic description of audiovisual information from a concept is not a physical transformation. Thus, no physical transformation is performed, no practical application is found in the claims. Such linking entities within the semantic description as claimed can be done in a piece of paper, where one having ordinary skill in the art would characterize the semantics of the audiovisual information in the sheet. Also, the claims do not appear to correspond to a specific machine or manufacture disclosed within the specification and thus encompass any product of the class configured in any manner to perform the underlying process, and are thus rejected as being directed. Claim 7 is not **tangibly embodied** in a manner so as to be executable as the only hardware is in an intended use statement. Therefore, claim 7 is directed to an abstract idea that is not tied to a technological art,

Art Unit: 2162

environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Applicant is advised to amend the claims by specifying the claim being directed to a practical application and producing a tangible result being executed by a general purpose computer in order to correct the above indicated deficiencies.

As to claims 8-11:

The dependent claims 8-11 are rejected for fully incorporating the errors of their respective base claims by dependency. Thus, claims 8-11 are merely abstract idea and are being processed without any links to a practical result in the technology arts and without computer manipulation. They are not **tangibly embodied** in a manner so as to be executable as the only hardware is in an intended use statement.

### *Claim Rejections - 35 USC § 112*

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-22 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claims 1 and 12 recites “a method of permitting description of audiovisual information”. However, the body of the claim provides the use of building a graph based on the determining of a match for an entity and for a relationship of the entity. The body of the claim



Art Unit: 2162

does not perform what set forth in the preamble. Applicants are advised to amend the claim to have a connection between the preamble and the body of the claim.

The preamble of claims 4 and 15 recites “a method for use in classifying, storage and retrieval of audiovisual information”. However, the body of the claim provides the use of describing an arbitrary structure related to the audiovisual information based on providing entities describing non-relational parts of a semantic description and referencing an interior structure of the concept from all entities. The body of the claim does not perform what set forth in the preamble.

Applicants are advised to amend the claim to have a connection between the preamble and the body of the claim.

The preamble of claims 7 and 18 recites “a method of instantiating a semantic description of audiovisual information from a concept”. However, the body of the claim provides the use of characterizing semantics of the audiovisual information by logically linking entities within the semantics description. The body of the claim does not perform what set forth in the preamble.

Applicants are advised to amend the claim to have a connection between the preamble and the body of the claim.

As to claims 2-3, 5-6, 8-11, 13-14, 16-17 and 19-22:

The dependent claims 2-3, 5-6, 8-11, 13-14, 16-17 and 19-22 are rejected for fully incorporating the errors of their respective base claims by dependency.

*Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7-11 and 18-22 as best understood by the examiner are rejected under 35 U.S.C. 103(a) as being unpatentable over Seagraves US Patent No. 5,652,880 and Beller US Patent no. 5,852,819.

As to claim 7, Seagraves discloses the claimed “logically linking entities within the semantic description to the corresponding properties in the concept”(col.1, line 65-col.2, line 14; col.4, lines 37-63; col.6, line 5-63; col.8, lines 26-61). However, Seagraves does not disclose the claimed features “the properties characterizing semantics of the audiovisual information”.

On the other hand, Beller discloses a hierarchical architecture for building and maximizing the accuracy of predictive models, which is a mathematical structure that simulates human learning by providing advanced non-relational query processing capabilities. Beller discloses the use of auditory visual signals, which identify an entity represented by a datum, such as using a series of words to describe what another datum means. Beller also provides the use of a suitable representation of other meaningful data relationships (col.1, lines 8-65). In particular, Beller discloses the claimed “the properties characterizing semantics of the audiovisual information”(col.22, lines 25-32). It would have been obvious to one having ordinary skill in the art the time the invention was made to combine the teachings of the cited references. One having ordinary skill in the art at would have found it motivated to utilize the teaching of Beller into the

Art Unit: 2162

system of Seagraves because that provide Seagraves the enhanced capability of describing a non-relational part of a semantic description, whereby the concept of the semantic description is from a group of audiovisual information.

As to claim 8, Seagraves discloses the claimed “controlling instantiation of a term in the semantic description with the concept”(col.1, line 65-col.2, line 14; col.4, lines 37-63; col.6, line 5-63; col.8, lines 26-61).

As to claim 9, Seagraves discloses the claimed “wherein a reference to the term retrieves the concept” (col.1, line 65-col.2, line 14; col.4, lines 37-63; col.6, line 5-63; col.8, lines 26-61; col.12, lines 30-65).

As to claim 10, Seagraves discloses the claimed “creating links between the entities in accordance with a list of acceptable relationship”(col.1, line 65-col.2, line 14; col.4, lines 37-63; col.6, line 5-63; col.8, lines 26-61; col.12, lines 30-65).

As to claim 11, Seagraves discloses the claimed “wherein the described non-relational elements of the semantic description”(col.4, lines 37-63; col.6, line 5-63; col.8, lines 26-61).

Claims 18-22 are computer readable medium having executable instructions for performing the method of claims 7-11. They are, therefore, rejected under the same rationale.

Art Unit: 2162

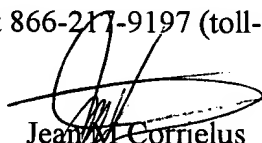
11. Claims 1-10 and 12-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and 101, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

**Conclusion**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jean M Corrielus  
Primary Examiner  
Art Unit 2162

May 12, 2005